

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of:**

**Bradley C.**

**Claimant,**

**vs.**

**SAN GABRIEL/POMONA REGIONAL  
CENTER,**

**Service Agency.**

**OAH No. L 2006030991**

**DECISION**

This matter came on regularly before Sandra L. Hitt, Administrative Law Judge (ALJ), Office of Administrative Hearings, on March 21, 2007, in Pomona, California. Bradley C. (Claimant) was represented by his parents, who are his authorized representatives.<sup>1</sup> Daniela Martinez, Fair Hearings Program Manager for the San Gabriel/Pomona Regional Center, represented the Service Agency.

Service Agency submitted Exhibits A-Z and AA, which were admitted into evidence. The evidence was received, the matter was argued, the record was closed, and the case was submitted for decision on the hearing date.

**ISSUE**

Should Service Agency be required to provide Claimant with five hours per week of Applied Behavioral Analysis (ABA) home behavior intervention (plus one hour for supervision) and five hours per month of parent training?

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<sup>1</sup> Claimant's surname, and that of his family members, is omitted throughout this Decision to protect the privacy of the minor child.

## FACTUAL FINDINGS

1. On January 25, 2007, Claimant's father filed a Fair Hearing Request (FHR) on Claimant's behalf. In that FHR, Claimant's father asked that the Service Agency fund five hours per week of in-home ABA services (plus one hour per week of supervision) for his son, and five hours per month of parent training for three months.<sup>2</sup> Service Agency denied this request. This hearing ensued.

2. Claimant is a seven years and eight months old boy (DOB: 08/08/99), with a diagnosis of autism. He is a client of the San Gabriel/Pomona Regional Center (Exhibit A). Claimant attends a regular classroom at Victor Hodges Elementary School in the Azusa Unified School District, with a one-on-one aide. He receives speech and language therapy five times per week; he also receives support services from Education Spectrum to develop his social skills. Claimant has been receiving in-home applied behavioral analysis (ABA) services, including discrete trial training (DTT) through the California Institute of Behavior Analysis (CIBA), a Service Agency vendor, since approximately 2002. The hours of in-home ABA services provided to Claimant have been reduced gradually over time to five hours per week, plus supervision (Exhibit A). Claimant's parents wish him to continue to receive five hours per week of in-home ABA services for a few more months. Service Agency wants to discontinue these services entirely.

3. Claimant had his last IPP meeting on August 31, 2006. Objectives identified at that meeting included Claimant's increasing (1) his self-help skills, (2) his socialization skills and (3) his safety awareness (Exhibit A).

4. Claimant has weaknesses in daily living skills. He cannot tie his shoes; he can use a spoon and fork, but will revert to using his fingers if not given verbal reminders (Exhibits A and R). Claimant also has socialization and safety issues. He has a tendency to wander off, does not look before crossing the street, and is overly friendly with strangers. Additionally he has a tendency to put foreign objects (pins, nails, dirt, balls, string off the carpet, etc.) in his mouth. He needs to learn about personal space (Exhibits A and R). He sometimes stands too close to other children and says inappropriate things (Exhibit A). He is very affectionate with lots of hugs, and he kisses the girls. This is cute now, but will not be so cute in a couple years.

5. Service Agency's expert witnesses, Dr. John D. Cone, and Dr. Deborah Langenbacher, clinical psychologists, testified that DTT is not intended to be a long term intervention. Dr. Langenbacher opined that the goal of DTT is for children to be able to attend more typical schooling. As Claimant is attending a regular classroom (albeit with a one-on-one aide), she agrees with Dr. Cone that DTT services should be terminated. In making the decision to discontinue Claimant's in-home ABA services, Service Agency

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<sup>2</sup> By the time of the hearing, this request had expanded somewhat, as Claimant's father indicated his desire to have the services provided until Claimant's next Individual Program Plan (IPP) meeting, or through August 2007. Service Agency did not object to this alteration of Claimant's request.

reviewed the most recent report from CIBA noting that for the previous three months, Claimant had not exhibited aggressive behavior, and had a low incidence of mouthing objects.

6. Claimant has benefited greatly from his CIBA in-home ABA services. Claimant's expert, Fumiko Hamada, Board Certified Associate Behavior Analyst (BCABA), and CIBA program supervisor, agreed with Service Agency's experts that Claimant does not need DTT anymore. However, Ms. Hamada pointed out that Claimant had been receiving other ABA services as well DTT; DTT and ABA are not synonymous. Ms. Hamada opined that Claimant needs to learn generalization. He does well in familiar and structured environments, but not so well in a community setting. Of particular concern to Ms. Hamada are the safety issues and Claimant's interactions with other children. Claimant behaves poorly with other children at Sunday school, which is a less structured environment. He is still quick to react and may grab or push someone. Ms. Hamada recommends a few more months of CIBA services be provided to Claimant and his family (generalization/parent training) in order to help Claimant transition out of ABA services. Service Agency's experts did not rebut the expert testimony of Ms. Hamada.

7. Claimant's parents believe he has made significant progress, but he still has a little way to go; he is "not quite there yet." They believe their son needs more time to learn generalization and that they need more parent training.

8. At this time Claimant continues to benefit from CIBA Services. Claimant still needs help to meet objectives outlined in his 2006 IPP. His next IPP meeting is scheduled for September, 2007. Claimant can derive a benefit from a few more months of ABA services to assist him in generalizing his learning from a structured environment to the community setting. Likewise, Claimant will derive a benefit from additional hours of parent training so that his parents can better assist him in meeting his objectives (See Exhibit A).

## **LEGAL CONCLUSIONS**

1. The Lanterman Developmental Disabilities Act (Lanterman Act) governs this case. (Welfare and Institutions Code §§ 4500 et seq.)<sup>3</sup> Claimant properly and timely presented a fair hearing request and otherwise established jurisdiction for this case (Factual Finding 1).

2. Persons afflicted with autism are entitled to services under the Lanterman Act, section 4512, subdivision (a). Claimant has autism (Factual Finding 2).

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<sup>3</sup> All statutory references herein are to the California Welfare and Institutions Code.

3. The Lanterman Act requires regional centers to provide developmentally disabled people with those services and supports that will allow them, “regardless of age or degree of disability, and at each stage of life” to integrate “into the mainstream life of the community” and to “approximate the pattern of everyday living available to people without disabilities of the same age.” (§ 4501.) The Act also states that persons with developmental disabilities have the right to treatment and habilitation services and supports which foster the individual’s developmental potential and are “directed toward the achievement of the most independent, productive and normal lives possible.” (§ 4502.) The Act also contemplates that the regional centers will work with consumers and their families to secure those services and supports which maximize opportunities and choices for living, working, learning and recreating in the community.

4. The Service Agency is required to secure services and supports that meet the individual needs of the consumer (§ 4501.) The needs of the consumer are determined through the IPP process, and the services provided should “be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.” (§ 4646, subd. (a).)

5. At present, Claimant has unmet needs (Factual Findings 3, 4, 6 and 7). Claimant has not met objectives set for him in his IPP meeting a year ago (Factual Finding 3). Claimant was previously assessed as needing ABA (Factual Finding 2). Claimant has most recently been receiving five hours per week (plus supervision) of at-home ABA intervention through CIBA (Factual finding 2). It was established that Claimant can benefit from five hours per week (plus supervision) of in-home ABA services, and five hours per month of parental training to help him achieve his objectives (Factual Finding 8).

WHEREFORE, THE FOLLOWING ORDER is hereby made:

### **ORDER**

Claimant’s request for funding by the Service Agency for in-home ABA intervention at the previously provided level of five hours per week (plus supervision) is granted. Claimant’s request for five hours per month of parent training is also granted. These services shall remain in place until the parties modify the IPP or Ms. Hamada concludes that Claimant has made a successful transition away from ABA services.

DATED: April 2, 2007

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SANDRA L. HITT  
Administrative Law Judge  
Office of Administrative Hearings

## **NOTICE**

**This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**